

REMARKS

The present amendment is submitted in response to the Office Action dated October 6, 2003, which set a three-month period for response, making this amendment due by January 6, 2004.

Claims 1-12 are pending in this application.

In the Office Action, claims 1-6, 8, and 10-12 were rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,070,901 to Hazell et al. Claims 7 and 9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hazell et al.

In the present amendment, claim 1 has been amended to more clearly define the present invention over the cited reference to Hazell et al by adding the features of claim 9, which has been canceled. The Applicant respectfully submits that amended claim 1 defines a patentably distinct set of features neither shown nor suggested by the cited reference.

According to claim 1 of the present application, the covering must be perforated. The term "perforated" or "perforations" generally means a row of holes, which completely penetrate a sheet of material. In Hazell, a cutting path is formed in a coating by means of a laser. According to column 5, lines 8-10 of Hazell, the beam only partially penetrates the covering, and according to column 5, line 10, the covering is scored to form an easily fracturable opening path. On the opposite side, the covering is not visibly marred.

While there is a material weakening along the cutting in Hazell, there are no holes completely penetrating the covering. This is shown in Fig. 3, where the indentation in the covering clearly does not reach completely through the covering to the surface. The detector 52 does not require a complete opening in the covering to detect the laser beam; rather, the laser beam shines through the covering and a thin material layer may still be present.

The Hazell reference fails to provide the perforations as defined in amended claim 1. Further, Hazell does not show any perforation openings, which have a greater diameter at one side than the other, as defined in amended claim 1. Thus, Hazell cannot be viewed as anticipatory of the subject matter of claim 1, when anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim.

Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984).


Furthermore, Hazell does not make obvious the present invention as defined in amended claim 1. Simply because the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 23 USPQ 2d 1780, 1783-84 (Fed. Cir. 1992).

For the reasons set forth above, the Applicant respectfully submits that claims 1-8 and 10-11 are patentable over the cited reference. The Applicant further requests withdrawal of the rejections under 35 U.S.C. 102 and 103 and reconsideration of the claims as herein amended.

In light of the foregoing arguments in support of patentability, the Applicant respectfully submits that this application stands in condition for allowance. Action to this end is courteously solicited.

Should the Examiner have any further comments or suggestions, the undersigned would very much welcome a telephone call in order to discuss appropriate claim language that will place the application into condition for allowance.

Respectfully submitted,



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